

The Commonwealth of Massachusetts State Ethics Commission



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FEB 08 1994

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COMMISSION FACT SHEET

Business and Entertainment Expenses for Public Officials

In August of 1988, the Commission issued a Public Enforcement Letter to one bank and five municipal treasurers, spelling out strict limitations on meals and entertainment expenses offered to public officials by private persons and businesses who have official dealings with the public official. The Commission ruled:

- No meal or entertainment expense of "substantial value" (\$50 or more) incurred by a public official may be paid for by a private party, whether or not the expense involves a so-called "business lunch";
- Even where the cost of a single meal or other entertainment is less than \$50, a private business may not pay for the public official's tab on a regular basis;
- Likewise, even though the cost of a single meal may be less than \$50, the private party may not issue a "standing offer" to pick up the tab on behalf of public officials;
- If the cost of a meal or entertainment is less than \$50 for a public official, but more than \$50 when that official's guest is included, the entire bill will be attributed to the official and constitute a violation of the conflict law.

Section 3(a) of G.L. c.268A prohibits the giving of anything of substantial value to public employees for or because of their official duties; Section 3(b) of the law prohibits public employees from accepting such gratuities.

Gratuities do not need to be given for or because of some specific, identifiable act performed or to be performed by the public employee for a Section 3 violation to occur; nor is it necessary to prove that any wrongdoing resulted from private individuals or businesses covering such expenses. All that is required is a connection between the motivation for the gift and the public employee's official duties. If the giver is in a position to benefit from the public employee's actions in his or her official capacity, the gift is prohibited.

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Section 3 also prohibits a vendor or other individual from giving anything of substantial value to a public employee even to thank the employee for a job well done, or to attempt to foster good will. To allow such gratuities to be accepted would amount to permitting public officials to get multiple remuneration for doing what they are already expected to do -- a good job.

The Commission has determined that gifts of substantial value to public employees are prohibited even in situations where friendship or a legitimate public purpose are motivating factors in offering the gift. Unless friendship or a legitimate public purpose is the motivating factor, the offering or acceptance of the gift violates the conflict law.

WHAT CONSTITUTES SUBSTANTIAL VALUE

The courts and the Commission have determined that meals and beverages costing \$50 or more are considered items of substantial value, and public employees are therefore prohibited from allowing private vendors to cover their expenses in such instances, even if the meal is a so-called "business lunch."

In addition, if an individual, business or company pays for a public official's meals on a regular basis, or pays for an official's guest in a situation where the official would otherwise pay for the guest's meal, the combined costs of all such expenses will be considered in determining substantial value.

The Commission has also ruled that gifts of tickets to theater and sporting events, and/or the payment of fees for recreational activities such as golf, are all items of substantial value if the individual or combined costs of such events amounts to \$50 or more.

Finally, the Commission has decided that waiving or reducing the admission price to a non-political fundraising event in an amount of \$50 or more also constitutes a gratuity of substantial value. Questions regarding attendance at political fundraising events should be reviewed by the Office of Campaign and Political Finance.

ISSUED: August 1988
REVISED: December 1992